

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Helen Kleinschmidt Falada,
Appellant,

v.

Johnson County Board of Review,
Appellee.

ORDER

Docket No. 13-52-0355
Parcel No. 14-06-429-001

On October 15, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Helen Kleinschmidt Falada was represented by her daughter-in-law, Jan Kleinschmidt. Assistant County Attorney Andy Chappell represented the Johnson County Board of Review. The Appeal Board, having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Helen Kleinschmidt Falada is the owner of a vacant lot located in Sharon Township, Johnson County, Iowa. The property is in the Kleinschmidt Family Trust. Kleinschmidt Falada's property is 0.350 acres and has an industrial classification. The January 1, 2013, assessment was \$7600.

Kleinschmidt Falada protested to the Board of Review claiming the property was misclassified under Iowa Code section 441.37(1)(a)(3) and should be agricultural realty. The Board of Review denied the petition. She then appealed to this Board reasserting her claim.

The property at issue was taken by the DOT through eminent domain in 1949, and DOT retained it as an easement for decades. In 2012, the DOT abandoned the easement and the property reverted to its prior owner, the Kleinschmidt Family Trust. (Exhibit A). During the time the DOT held the easement, the property was classified industrial for assessment purposes, due in part, to the

use of adjoining property. It retained this classification when its ownership reverted to the Kleinschmidt Trust.

Jan Kleinschmidt testified on Helen's behalf. She submitted several exhibits relating to the adjoining property. It appears the purpose of the exhibits was to demonstrate the zoning in the area is agricultural but the property is classified industrial classification; and further, that the adjoining parcel's current use was commercial. First, we note that zoning may or may not be similar to classification. Moreover, a property is classified by *its* use. The Board of Review questioned Kleinschmidt about the current use of the subject property, and she testified there is no agricultural activity occurring on it.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value, with one exception being agricultural property which is valued based solely on its productivity and net earning capacity. Iowa Code §§ 441.21(1)(a) & (e).

Falada asserts her property is misclassified and that it should be classified as agricultural realty. The Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. *See* IOWA ADMIN. CODE r. 701-71.1 et al. (2013). Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. r. 701-71.1(1). Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. r. 701-71.1(2). Property is to be classified “according to its present use and not according to any highest and best use.” r. 701-71.1(1). “Under administrative regulations adopted by the . . . Department . . . the determination of whether a particular property is ‘agricultural’ or [residential] is to be decided on the bases of its primary use.” *Svede v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). There can be only one classification per property. r. 701-71.1(1).

By administrative rule, agricultural property


shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit.

r. 701-71.1(3)

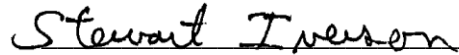
Jan Kleinschmidt testified that the subject property is not used for agricultural purposes. Following Iowa law and administrative rules governing the classification of real estate, the property cannot meet the requirements to be classified agricultural realty. We must, therefore, affirm the assessment.

THE APPEAL BOARD ORDERS the 2013 classification and assessment of Helen Kleinschmidt Falada's property located in Sharon Township, Johnson County, Iowa, set by the Johnson County Board of Review, is affirmed.

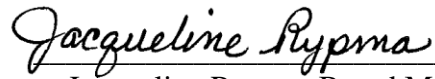
Dated this 28th day of October, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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